

TOWN OF DERRY

**Town Council
Derry Municipal Center**

**May 19, 2020
Tuesday - 7:00 PM**

6:00 PM Non-Public Session – RSA 91A:3 II (b)

7:00 PM Call to order

"It is possible, in light of COVID-19 pandemic situation and the state of emergency declaration in NH, that most or all board members will be unable to attend our Derry public meetings in person because they are concerned about getting sick or perhaps are already sick. Governor Sununu has issued Emergency Order #16, which waives the requirement that quorum be physically present in the meeting room; a meeting of a public body may be conducted with most or all members participating electronically. To maintain the Governor's Directive that no more than 10 people shall gather, the public is not allowed into the meeting room. There is a contact number at the bottom of the Derry TV Cam screen with a phone number where members of the public can listen in and participate in the Public Forum and Public Hearing portions of the meeting. This access number was also posted along with the agenda and posted on the exterior doors of the Municipal Center. Please note that due to the physical absence of some Councilors, all votes taken shall be done by Roll Call.

**Councilor Tripp moves to leave non-public session, seconded by Councilor Morgan
Roll Call Vote: 7-0-0**

Pledge of Allegiance, warning of fire exits, handicap access, & turn off all cell phones

Roll Call: Councilor Tripp and Chairman Foote in-person and Councilor's Katsakiores(7:05), Bourdon, Chirichiello, Wetherbee, and Morgan by Video.
Present: TA David Caron, Town Clerk Daniel Healey

Public Forum - *30 Minutes*

**Motion by Councilor Tripp to open public forum, seconded by Councilor Wetherbee
Roll Call Vote: 7-0-0**

No one from the public spoke.

**Motion by Councilor Katsakiores to close public forum, seconded by Councilor Tripp
Roll Call Vote: 7-0-0**

Consent Agenda

20-52 Approve Minutes – April 28, 2020

20-53 Approve Minutes – May 5, 2020

20-54 Acceptance of Resignation – Derry Housing & Redevelopment Authority

20-20 Ordinance #2020-003 – Amendments to General Code, Chapter 55, Food Service Establishments

20-55 Ordinance #2020-005 – Regulating Outside Dining

Motion by Councilor Tripp to approve the consent agenda, seconded by Councilor Wetherbee (with correction to May 5, 2020 minutes)

Roll Call Vote: 7-0-0

Consent agenda approved

Chairman's Report – Charlie Foote

Councilor Chirichiello gave an update on the Vintage Grace property. At this time, Rockingham County will not be purchasing the property, they no longer believe it is a good fit at that location. Councilor Bourdon presented a Net Zero initiative that he would like the council to discuss. It will be added as a future agenda item.

Town Administrator's Report – David Caron

Emergency Management Director and Fire Chief Mike Gagnon gave a report on the Town's response to COVID-19.

CFO Mark Fleischer gave a report on the April 2020 revenue trends compared to the April 2019 revenues. Due to the COVID-19 Pandemic, the Derry Municipal Center went virtual on 3/19/2020 and therefore has been closed to the public. For the month of April, interest revenue was down 68.1% and the town treasurer will continue to explore other investment opportunities. Motor Vehicle revenue overall is at 87.5% of the FY20 budget and it is anticipated that the budget will be met. Building permit activity appears to be steady. The transfer station revenue is at 87.9% of the budget. The preliminary 2020 real estate tax bills are anticipated to be mailed by 4/22/2020 with a due date of 7/1/2020.

The Emergency Management Director has completed the review of the terms and conditions associated with the Medicare service provider payment in the amount of \$33,814. The terms and conditions were deemed acceptable and the funds have been deposited into the COVID-19 Trust Fund, The Police Department has submitted the application to the NH Dept. of Justice for personal protective equipment in the amount of \$48,708, the town is awaiting final guidance from NHDOJ regarding the use of these funds, Governor Sununu announced a reimbursement program available to municipalities and counties totaling \$40M of which approximately \$785,000 is allocated to Derry. This fund is available for reimbursement of non-FEMA expenses through September 1 initially, and carrying through to the end of the calendar year. Revenue replenishment is not authorized under this program per federal guidelines, Governor Sununu also announced the First Responder stipend for police and firefighters in the amount of \$300 weekly from May 4 through the end of June, funds from the program will be delivered to the Town in early June. The Town has opted to pay the stipend at the end of June when a final reconciliation of program rules and employee availability will be known. Once a final amount is known, the Council will be requested to withdraw the amount from the COVID-19 Trust, The Town Administrator signed a letter authored by Congressman Pappas requesting additional Federal Aid for revenue replenishment. The letter was addressed to Congressional Leadership as an additional aid package is considered, On May 13 the Town Administrator participated in a conference call with Senator Shaheen on the proposed aid package. Two points of emphasis: a. Revenue replenishment, as service demands upon the Town do not diminish during times of economic strain, and, b. Recognizing the longer recovery time anticipated for the events and entertainment industries, additional SBA consideration for these businesses, many which have seen their bookings wiped out for the entire calendar year. Economic Development is looking at opportunities to replenish the Revolving Loan Fund through EDA funding, and further

investigating grant opportunities to complete an economic analysis for Derry which would assist with land use and development decisions. The Council is requested to review their schedules for June 9th to schedule a workshop on Hood Park, the Recreation Bond and the Rail Trail. East Broadway has been milled and shim course of pavement has been placed. Contractors will be working during the week of May 19th to adjust manholes and gate valve boxes back to finish grade. Once this has been completed, the final paving will be scheduled. Final paving is expected to be completed by May 29, 2020. Kenyon Landscaping will be starting work on Wednesday May 20 to remove and replace 20 trees downtown. Field Maintenance Updates: Obtaining 2 additional quotes for the 1/2 field of the landing strip so the town can move forward with that project. The project will include grinding and removing the top layer of thatch, bringing in and spreading sports sand to help with the drainage and crown along with laser-grading the field. Aerator slicing was completed on fields at DB (including the front 1/2 of the landing strip), Rider 1 & 2, WRB and Barka to loosen the soil for root growth. An aerator over seeder was used to seed Vets, O'Hara, Ryder 1 & Ryder 2, Fields at DB (including the front 1/2 of the landing strip), WRB, Barka and Bastek. Second round of fertilization will now include grub control to address issues like the one in the outfield of Vets. Grubs are the cause of the large brown area in the Vets' outfield. Reduced the size of the Vets infield, to bring it to regulation size, with raking and seeding. O'Hara: Prepped, added loam and sodded in the low areas by the pitcher's mound and the holes in the outfield. The entrances to the dug outs were also sodded. Dog Park Maintenance Update: Removed the barbed wire from the fence; Repaired fence and gate; Removed trees interfering with power lines; Bamboo Eradication; Building and painting new equipment/play obstacles for dogs. Filled large, deep wells; Regrading the entire park; Creating new surface with all new stone dust; Ordered a new dog park sign. Summer concerts are postponed until at least Tuesday July 7th. The final decision on Gallien's Beach and the Splash pad is still pending. Senior Trips are still on hold indefinitely. Summer/Falls sports are still on hold and staff has been engaging with the leagues on future plans. The Fireworks bid has been advertised with a due date of May 29. The bid is structured to allow for flexibility to schedule alternate dates later in 2020. At the 36th Annual Arts Awards, the NH Business Committee for the Arts gave Derry a shout-out for supporting the work of the Creative Economy. It was mentioned that the Town Council unanimously voted in favor of designating a formal Cultural District, creating an environment that supports the Arts, giving the town's creative workers and the overall economy, a boost. Great news at a time that the State has also acknowledged the importance of the Arts by increasing the FY2020 grant line to include over 8K dollars to fund public/private projects that contribute community impact.

Town Administrator Dave Caron recommends that the Town Council promote Catherine St. Ledger to the position of Human Resources Director

Councilor Tripp MOVES THAT THE TOWN COUNCIL adopt Ordinance #2020-028, which reads as follows [*Read the Resolution*], seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0
Ordinance attached

Public Hearing

20-51 Resolution #2020-027 – Amend the Boundaries of the Derry Commerce Corridor TIF District – *Town Administrator Dave Caron presenting*

The Town Council expanded the Route 28N TIF District to include the Downtown into the Derry Commerce Corridor TIF District during the adoption of the FY 20 budget. The District boundaries were expanded to include Crystal Avenue, sections of Birch, E & W Broadway, and streets off E & W Broadway to support the Council goal to create commerce expansion and depth throughout the Downtown area. At that time, Hood Park was included in the new district as a recognition of its importance supporting Downtown Commerce, the land upon which the rail trail is constructed was not totally included in the District. Only that portion of the lot from South Avenue to Rollins Street was included, the intention was to also include the portion of the lot from Rollins to North Main Street. The Town Council previously recognized the importance of recreation tourism as a component of the Derry Commerce Corridor by including Hood Park and portions of the rail trail within the Downtown. Correcting the oversight by adding this portion of the lot containing the rail trail between Rollins Street and North High Street would create consistency with the Downtown section and allow resources to redevelop this section and Hood Park into one vision.

Motion by Councilor Tripp to open public hearing, seconded by Councilor Chirichiello Roll Call Vote: 7-0-0

No one from the public spoke.

Motion by Councilor Wetherbee to close public hearing, seconded by Councilor Tripp Roll Call Vote: 7-0-0

New Business

20-56 Ordinance #2020-006 – Enact an Emergency Ordinance Governing Outdoor Restaurant Seating during the COVID-19 State of Emergency – *Town Administrator Dave Caron presenting*

On March 13, 2020, Governor Sununu issued Executive Order #2020-04, an order declaring a state of emergency due to the Novel Coronavirus (COVID-19); on Monday, March 16, 2020, the Governor issued Emergency Order #2, temporarily prohibiting gatherings of 50 or more attendees and prohibiting onsite food and beverage consumption throughout the State. Those Orders have since been modified to continue to address the pandemic and to protect the residents in the State of New Hampshire, which included limiting gatherings to not more than ten individuals. Restaurants were allowed to offer curb-side pick-up. On May 01, 2020, Governor Sununu issued Emergency Order #40, which extended the Stay at Home order to at least May 31, 2020, but permits restaurants to offer outdoor dining as of May 18, 2020. Under these guidelines, restaurants are allowed to offer outdoor seating on the restaurant's property. The restaurants can set up the dining in a safe area and can utilize parking spaces located close to the entrance of the establishment, sidewalks, existing patios, and lawn areas. If outdoor seating is to be established utilizing shared property/town public spaces, the restaurant owner is required to obtain permission from the town. This would include utilization of portions of town sidewalks as an outdoor dining space. No indoor dining is allowed. The establishments are required to follow the guidelines outlined per the Governor's Reopening Task Force (reference: Stay at Home 2.0/Restaurants). In order for restaurants in the Town of Derry to reopen, they will need to coordinate and seek approval from the Town, to include compliance with Life Safety

and Health Codes. In the interest of promoting economic stability for our businesses, the Economic Development Department, in coordination with the Planning, Code, Fire Prevention, and Health Departments, developed a temporary Outdoor Dining permit and guidelines for outdoor dining. A separate Outdoor Dining Ordinance will be offered for the Council's review. Temporary permits for outdoor dining would expire on June 30, 2020. The permits could be continued after that date with approval from the Town Administrator.

Motion by Councilor Tripp to Declare an Emergency, seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0

Councilor Tripp MOVES THAT THE TOWN COUNCIL adopt Ordinance #2020-006, which reads as follows [Read the Resolution], seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0
Ordinance attached

20-34 Resolution #2020-015 – Amend the Tax Increment and Development Plans for the Ash Street Tax Increment Financing District – *Town Administrator Dave Caron presenting*

The Town successfully developed the Ash Street TIF District after its establishment in 2004. With District debt service completely retired in FY 20, and its close proximity both physically and economically with the planned Exit 4A corridor, an opportunity presents itself to apply proceeds from the Captured Assessed Value to expand economic opportunities in this area. Similar to the expansion of the Rte. 28N TIF into the Derry Commerce Corridor as approved by the Council in FY 20, the Town has an opportunity to capitalize and expand on a development success story for the overall economic benefit to the community. The Ash Street District has generated an additional tax base valued at \$8.77M since its inception. This area has been identified in the 2020 Master Plan as a focus area for enhanced development. The area was also identified by the Council during the FY 19 goal setting process for enhancements to Franklin Street Extension for better access to the Town's industrial areas. Further, the regional rail trail is planned to traverse through this area.

Councilor Tripp MOVES THAT THE TOWN COUNCIL adopt Resolution #2020-015, which reads as follows [Read the Resolution], seconded by Councilor Wetherbee
Roll Call Vote: 7-0-0
Resolution attached

20-35 Resolution #2020-016 – Create an Expendable Trust for Gateway TIF District Redevelopment and Infrastructure Activities – *Town Administrator Dave Caron presenting*

The Town successfully developed the Ash Street TIF District after its establishment in 2004. With District debt service completely retired in FY 20, and its close proximity both physically and economically with the planned Exit 4A corridor, an opportunity presents itself to apply proceeds from the Captured Assessed Value to expand economic opportunities in this area. Similar to the expansion of the Rte. 28N TIF into the Derry Commerce Corridor as approved by the Council in FY 20, the Town has an opportunity to capitalize and expand on a development success story for the overall economic benefit to the community. The Ash Street District has generated an additional tax base valued at \$8.77M since its inception. This area has been identified in the 2020 Master Plan as a focus area for enhanced development. The area was also identified by

the Council during the FY 19 goal setting process for enhancements to Franklin Street Extension for better access to the Town's industrial areas. Further, the regional rail trail is planned to traverse through this area.

Councilor Tripp MOVES THAT THE TOWN COUNCIL adopt Resolution #2020-016, which reads as follows [Read the Resolution], seconded by Councilor Wetherbee
Roll Call Vote: 7-0-0
Resolution attached

20-57 Resolution #2020-029 – Accept a Bureau of Justice Assistance Grant for Personal Body Armor – Police Chief Ed Garone presenting

Recently the Derry Police Department was notified by the Bureau of Justice Assistance (BJA) that the Derry Police Department is eligible to receive an award under the Federal Fiscal Year 2020 Bulletproof Vest Partnership (BVP) program. They have participated in the program for a number of years. The FY20 award may be used for National Institute of Justice (NIJ) compliant armored vests. The awarded funds can be used until August 31, 2022. Based on the Derry Police Department's history and current needs, they have projected that they will need to purchase fifteen (15) bulletproof vests during this timeframe. They anticipate that the BJA will award the department \$6,393.75 which is half of the cost of the estimated fifteen bulletproof vests. The BJA would reimburse the police department for up to 50% of each vest after the purchase has been made. Authorization is requested for the Town Administrator to accept the grant funds which will not exceed \$6,393.75 for the purchase of personal body armor.

Councilor Tripp MOVES THAT THE TOWN COUNCIL adopt Resolution #2020-029, which reads as follows [Read the Resolution], seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0
Resolution attached

Councilor Comments / Liaison Reports –

Councilor Morgan – Would like the agenda prioritized to have grants first if possible. Tupleo has been doing a great job with their innovative ideas including a first in the nation drive-in concert.

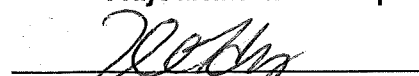
Councilor Tripp – Happy to see that residents are actively using the conservation areas in town.


Councilor Chirichiello – The September/November elections are coming up fast and would like to see some discussion upcoming on how the Town will handle them during COVID-19. Town Moderator Cristina Guilford will be speaking at the next meeting

Chairman Foote – Thanked staff and the Town Council for their work during this time.

Motion to adjourn by Councilor Tripp, seconded by Councilor Morgan
Roll Call Vote: 7-0-0

Adjournment: 9:05 p.m.


Town Clerk


Date

Recording & Transcription by: Daniel Healey, Town Clerk



RESOLUTION

Number 2020-028

To Confirm the Appointment of the
Human Resources Director

WHEREAS, Section 8.6(B) of the Town Charter requires that the Town Council confirm the appointment of officers and employees who report directly to the Town Administrator; and

WHEREAS, a vacancy exists in the position of Human Resources Director; and


WHEREAS, the Town Administrator has appointed a candidate who has been an integral part of the Human Resources team for the past eleven years and possesses the necessary skills and experience to manage the Town's human resources functions and responsibilities;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the appointment of Catherine St. Ledger as Human Resources Director is hereby confirmed.


This Resolution shall take effect immediately upon its passage.

Adopted: May 19, 2020

Attest:

x 

Charles Foote, Council Chair
Date: 5/19/20

x 

Daniel Healey, Town Clerk
Date: 5-19-2020

Archival Ref: TC agenda – Town Administrator's Report



ORDINANCE Number 2020-006

An Emergency Ordinance To Provide Guidance to Governor's Emergency Order #40 Concerning Outdoor Dining

WHEREAS, Section 5.1 of the Town Charter designates the Town Council as the governing and legislative body of the Town, and pursuant to Section 6.1, the Council shall legislate by ordinance; and

WHEREAS, the Town Charter authorizes the Town Council to adopt Emergency Ordinances, and

WHEREAS, the Town is currently under the Governor's State of Emergency during this Pandemic; and

WHEREAS, the Governor issued Executive Order #40 which, in part, allows restaurants to offer outdoor dining beginning on May 18; and


WHEREAS, in order to protect public health and safety, the Town seeks to enact an emergency ordinance ensuring the safe rollout of this service; and

WHEREAS, the Council has previously voted that an emergency exists;

NOW, THEREFORE, THE TOWN OF DERRY ORDAINS that the Temporary Outdoor Dining Ordinance as summarized in the attached Application is hereby adopted, effective immediately.

Adopted: May 19, 2020

Attest:

x 

Charles Foote, Council Chair

Date: 5/19/20

x 

Daniel Healey, Town Clerk

Date: 5-19-2020

Archival Ref: Agenda Item #20-56



Resolution #2020-015

To Amend the Development Plan and Tax Increment Financing Plan and Rename the Ash Street Tax Increment Financing (TIF) District

WHEREAS, The Town previously enacted the provisions of Chapter 162-K, Municipal Economic Development and Revitalization Districts; and

WHEREAS, the Town established and actively supports its two TIF Districts (Ash Street and Derry Commerce Corridor) by investing in their development for the benefit of the Districts and the entire community; and,

WHEREAS, the Council and the community have recognized that the Town's transportation patterns will be significantly altered with the impending construction of the Exit 4-A project; and

WHEREAS, the potential and importance of this area to the Town's economic future has been documented in the Town's Master Plan; and

WHEREAS, the expansion of the Ash Street TIF District to include Madden Hill Road, Franklin Street Extension, and portions of Folsom Road and North High Street will provide resources and synergies to further grow the Town's economy;

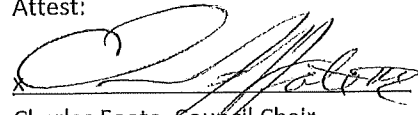
Archival Ref: Agenda Item #20-34

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Derry Town Council, pursuant to RSA 162-K:9, hereby amends and expands the Development Plan and Tax Increment Financing Plan for the Ash Street TIF District (to be renamed the Gateway TIF District), to provide resources for the orderly development and growth of the Town's commercial and retail sectors, to include the properties highlighted on the attached map.

This Resolution shall take effect upon its passage.

Adopted May 19, 2020.

Attest:



Charles Foote, Council Chair

Date: 5/19/20

x 

Daniel Healey, Town Clerk

Date: 5-19-2020

Archival Ref: Agenda Item #20-34



RESOLUTION

Number 2020-016

To Create an Expendable Trust for Gateway TIF District Redevelopment
and Infrastructure Activities

WHEREAS, Section 5.1 of the Town Charter establishes the Town Council as the governing and legislative body of the Town; and

WHEREAS, the Town requires a funding mechanism to support the expansion and revitalization of the Exit 4A Corridor; and

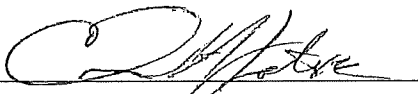
WHEREAS, investments for this purpose will enhance and promote the general welfare, health and safety of the community, as well support growth of the Town's business and industry sectors;


NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that an Expendable Trust Fund for Gateway TIF District Redevelopment and Infrastructure Activities is hereby created pursuant to RSA 31:19-a, with the Town Council designated as Agents to Expend.

This Resolution shall take effect immediately upon its passage.

Adopted: May 19, 2020.

Attest:

x 
Charles Foote, Council Chair
Date: 5/19/20

x 
Daniel Healey, Town Clerk
Date: 5-19-2020

Archival Ref: Agenda Item #20-35



RESOLUTION

Number 2020-029

To Accept a Bureau of Justice Assistance Grant for Personal Body Armor

WHEREAS, Section 9.15 of the Town Charter authorizes the Town Council to accept grant funding; and

WHEREAS, funding is available through the Department of Justice, Bureau of Justice Assistance for Personal Body Armor; and

WHEREAS, the Town foresees the need to purchase fifteen vests during this budget period, and the DOJ would reimburse the Town for 50% of the cost of this purchase (\$6,393.75); and

WHEREAS, the availability and use of Personal Body Armor is vital to an officer's safety;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Town Administrator is hereby authorized to apply for, accept and expend such funds derived from the Department of Justice, Bureau of Justice Assistance grant and to enter into agreements with the DOJ as may be necessary to finalize receipt of this grant funding.

This Resolution shall take effect immediately upon its passage.


Adopted: May 19, 2020

Attest:

x 

Charles Foote, Council Chair

Date: 5/19/20

x 

Daniel Healey, Town Clerk

Date: 5-19-2020

Archival Ref: Agenda #20-57